

BOARD OF APPEALS

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|---|----------------|------------------|----------------|----------------|----------------|
| PROGRAM: Zoning Related Hearings and Administrative Appeals | | PROGRAM ELEMENT: | | | |
| PROGRAM MISSION: To implement the flexibility provided in the Zoning Ordinance as approved by the County Council, to provide a fair hearing process that is accessible and understandable to the public, and to assist County citizens in understanding and participating in the special exception, variance, and administrative appeal processes | | | | | |
| COMMUNITY OUTCOMES SUPPORTED: • Provide flexibility within the law in the application of zoning and other land use requirements • Ensure fair and timely administration of justice • Provide open, accessible, responsive government • Increase public confidence in and understanding of government processes and services | | | | | |
| PROGRAM MEASURES ^a | FY03 ACTUAL | FY04 ACTUAL | FY05 ACTUAL | FY06 BUDGET | FY07 CE REC |
| Outcomes/Results: | | | | | |
| Number of special exceptions ^b decided | 116 | 59 | 36 | NA | 40 |
| Number of variances ^c decided | 65 | 58 | 64 | NA | 65 |
| Number of administrative appeals ^d decided | 21 | 12 | 16 | NA | 20 |
| Number of administrative actions taken ^e | 636 | 468 | 426 | NA | 425 |
| Service Quality: | | | | | |
| Percentage of filers surveyed who were satisfied or very satisfied with: ^f | | | | | |
| - The assistance provided by Board staff | NA | NA | NA | NA | TBD |
| - Their understanding of the process | NA | NA | NA | NA | TBD |
| - The ease with which they navigated the process | NA | NA | NA | NA | TBD |
| - The fairness of the process | NA | NA | NA | NA | TBD |
| Percentage of opponents surveyed who were satisfied or very satisfied with: ^f | | | | | |
| - The assistance provided by Board staff | NA | NA | NA | NA | TBD |
| - Their understanding of the process | NA | NA | NA | NA | TBD |
| - The ease with which they navigated the process | NA | NA | NA | NA | TBD |
| - The fairness of the process | NA | NA | NA | NA | TBD |
| Average time to issue a written decision (days): | | | | | |
| - Special exceptions | 57 | 24 | 25 | NA | 30 |
| - Variances | 55 | 36 | 43 | NA | 30 |
| - Administrative appeals | 66 | 55 | 61 | NA | 45 |
| Number of reconsiderations ^g requested | NA | NA | NA | NA | TBD |
| Number of Board decisions remanded from the courts | 3 | 0 | 1 | NA | 1 |
| Percentage of Board decisions upheld on appeal | NA | NA | NA | NA | TBD |
| Efficiency: | | | | | |
| Average cost per case heard (\$) | 589 | 826 | 929 | NA | 900 |
| Fees received (\$) | 216,707 | 415,356 | 346,953 | NA | 350,000 |
| Percentage of expenditures covered by fees | 45.1 | 79.6 | 66.3 | NA | 65 |
| Workload/Outputs: | | | | | |
| Number of special exception cases filed/heard | 62 | 48 | 33 | NA | 35 |
| Number of variance cases filed/heard | 81 | 60 | 52 | NA | 50 |
| Number of administrative appeals filed/heard | 41 | 27 | 18 | NA | 25 |
| Number of worksessions held | 33 | 29 | 34 | NA | 35 |
| Number of telephone requests/queries answered | NA | NA | NA | NA | TBD |
| Number of walk-in clients assisted | NA | NA | NA | NA | TBD |
| Inputs: | | | | | |
| Expenditures (\$000) | 480,460 | 521,930 | 523,030 | 523,030 | 556,440 |
| Workyears | 5.0 | 5.0 | 4.5 | 4.5 | 4.5 |
| Notes: | | | | | |
| ^a This is a new program measures display, and many of the measures shown are new. Because program measures were not prepared by the Board of Appeals for FY06, there are no performance targets under the FY06 Budget column. Data collection for the new measures will begin in July, 2006. | | | | | |
| ^b A "special exception" is a conditional use permitted in a given zone, provided that it complies with the standards established for it in Section 59-G-2 of the Montgomery County Code. | | | | | |
| ^c A "variance" is permission to build something out of compliance with the established development standards for the zone. | | | | | |
| ^d An "administrative appeal" is an appeal from a ruling or action of a County agency. Examples include appeals of the issuance of permits, denial of permits, and denial of certain licenses. | | | | | |
| ^e An "administrative action" is a decision or ruling which the Board can make in a case without holding a public hearing. | | | | | |
| ^f A survey of persons who have filed cases (or appeals) with the Board of Appeals - and of the opposing parties - will be developed and implemented for FY07. | | | | | |
| ^g A "reconsideration" is an interim level of appeal in which the Board is asked to reconsider an earlier decision. | | | | | |
| EXPLANATION: | | | | | |
| The Board of Appeals is a quasi-judicial body of five members appointed by the Montgomery County Council for staggered four-year terms. The Board has authority to hear and decide certain land use cases, including requests for special exceptions for uses permitted only by special exception in a particular zone, variances from the development standards set forth in the Zoning Ordinance, and administrative appeals from certain actions of the County government, as specified by the County Code. In many of the latter appeals, the Board sits as the original decision-making body and hears the case as if for the first time. The Board has countywide jurisdiction except for the seven incorporated municipalities. Board decisions have the force of law and can be appealed directly to the Circuit Court within thirty days from when the Board issues the written opinion. Since January, 1992, all of the Board's worksessions have been open to the public, in compliance with the State Open Meetings Act. In such worksessions, the Board reviews and votes on those cases which, by ordinance, the Board is permitted to act upon without a public hearing (such as requests for administrative modification to special exceptions, revocations, and various motions and scheduling matters). | | | | | |
| Board staff assist customers in filing cases and obtaining information about cases or Board procedures. Other responsibilities include receiving and processing applications for cases within the Board's jurisdiction, issuing signs, scheduling hearing dates, responding to public and intra-governmental inquiries, reviewing applications for completeness and advising applicants as necessary, sending out notices and approved opinions, and performing research on previous cases. The Board's budget includes 0.5 workyear for an attorney assigned to the Board from the County Attorney's Office who participates in hearings, provides legal counsel to the Board, drafts opinions, and argues appeals to the Board's opinions before the Circuit Court. | | | | | |
| PROGRAM PARTNERS IN SUPPORT OF OUTCOMES: County Council, Office of the County Attorney, Department of Permitting Services, Department of Housing and Community Affairs, Maryland-National Capital Park and Planning Commission. | | | | | |
| MAJOR RELATED PLANS AND GUIDELINES: Article 28, Section 8-110 of the Maryland Code; sections 2A1-11, 2-108 through 2-116, and 59-A-4.1 through 5.0 of the Montgomery County Code; State Open Meetings Act, Article 10-501 through 10-512 of the Maryland Code; Board of Appeals Rules of Procedure. | | | | | |